

- SUBJECT:** Authorizing infrastructure planning for urbanizing counties
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 5 ayes — Walker, F. Brown, Geren, Krusee, B. Turner
1 nay — Crabb
3 absent — Howard, Mowery, Truitt
- WITNESSES:** For — Jack Harris, Brazoria County; Ken Leonard, Kaufman County Commissioners Court; Jay P. Millikin, Comal County Commissioners Court; (*on committee substitute:*) Donald Lee, Texas Conference of Urban Counties
Against — None
- BACKGROUND:** Texas law provides authority for cities to adopt subdivision regulations, enforce major thoroughfare plans, and set other development standards. Generally, counties lack similar authority to provide for infrastructure planning for development.
- DIGEST:** CSHB 2762 would establish infrastructure planning provisions for large and urbanizing counties. The bill would allow counties to adopt platting and subdivision rules in unincorporated areas, establish major thoroughfare plans, set other development standards, and regulate the connection of utilities.
- The bill would apply to counties with a population of 150,000 or more along the Texas-Mexico border; those with a population of 700,000 or more; and those adjacent to a county with a population of 700,000 or more that were within the same metropolitan statistical area. According to the 2000 census, border counties with populations of at least 150,000 are Cameron, El Paso, Hidalgo, and Webb counties. Counties with a population of at least 700,000 are Bexar, Dallas, Harris, Tarrant, and Travis counties.
- The affected counties could adopt rules governing plats and subdivision of land within their unincorporated areas to promote the safe, orderly, and healthful development of unincorporated areas. The bill would not permit

counties, unless otherwise authorized by state law, to regulate:

- ! the use of buildings or property for business, industrial, residential, or other purposes;
- ! the bulk, height, or number of buildings on a tract of land;
- ! the size of a building that could be built on a particular tract of land; or
- ! the number of residential units per acre of land.

After adopting an order, entering it in the commissioners courts' minutes, and publishing it in a newspaper of general circulation, an affected county could:

- ! require a thoroughfare plan setting the limit on thoroughfare right-of-way at 120 feet;
- ! adopt reasonable standards for minimum lot frontages;
- ! establish reasonable building and setback lines; and
- ! impose requirements on the connection of utilities.

These counties could contract with subdivision developers to build improvements in unincorporated areas without complying with the sealed bidding procedure required under Local Government Code, chapter 262. The developer could build improvements such as streets or water and sewer lines, and the county could participate in up to 30 percent of the cost of the improvements. Counties could provide all costs of oversizing public improvements to provide for future growth.

Other provisions would require a performance bond from the developer and would allow the commissioners court to adopt other safeguards against undue cost, collusion, or fraud.

This bill would take effect September 1, 2001.

SUPPORTERS
SAY:

CSHB 2762 would give counties the necessary tools to ensure orderly development in unincorporated areas. For various reasons, most of Texas' growth is occurring in unincorporated areas of urban counties where land-use regulations are weak or nonexistent. Growth in these areas is likely to remain strong. For example, Comal County, next to Bexar County, has a population of 85,000 and more than 10,000 residential lots under development. Even with no additional development, Comal County will see a population

increase of 27 percent once the existing residential lots are developed. This kind of change is happening throughout the state, and urbanizing counties need the flexibility to provide for adequate thoroughfares and utility service.

CSHB 2762 would apply to only about 30 of the state's 254 counties. It would concentrate on the large urban counties and on counties on the periphery of the larger cities and on the border that are undergoing explosive growth. It would not affect smaller cities or rural counties.

Increased regulation would enhance the protection of property rights as population densities increase in rapidly urbanizing counties. Proper land-use regulations help prevent haphazard growth and protect the property values of suburbanites as well as the remaining agricultural property owners living in these transition areas.

CSHB 2762 would provide for the level of regulation permitted in smaller general-law cities. It would set no new precedents in the level of authority granted to counties. Several provisions in the bill would prohibit county zoning ordinances without specific authority from the Legislature.

Proper planning tools and regulations would stop the development of new colonias, or irregular subdivisions in unincorporated areas that lack water and sewer service and other basic services. Colonias no longer are confined to border counties.

Short-sighted policies on providing adequate infrastructure contribute to traffic congestion and sprawl and make fixing these problems more expensive in the long run. Skimping on development standards does not create affordable housing, because the costs of vital services will have to be addressed in the future.

OPPONENTS
SAY:

CSHB 2762 would grant counties more control of land use than is justified. The level of regulation proposed in this bill would be the nearly the same as zoning. The state traditionally has resisted giving this power to counties and should not reverse that policy.

Developers now build in unincorporated areas to avoid the expense of complying with zoning ordinances and other burdensome regulations inside

the cities. Additional county regulation would only increase costs and reduce the availability of affordable housing.

NOTES:

The population brackets in HB 2762 as filed would have provided infrastructure planning authority to counties with populations of at least 100,000 and to adjacent counties. The committee substitute removed provisions specifying lot frontage regulations and a 150-foot standard for right-of-ways on major thoroughfares. The substitute also deleted regulations on connections of utilities and provisions that would have allowed counties to charge impact fees.

The companion bill, SB 873 by Lindsay, passed the Senate by voice vote on April 19 and was reported favorably, as substituted, by the House Land and Resource Management Committee on April 25, making it eligible for consideration in lieu of HB 2762.